

Ser. No. 10/676,937
Group Art Unit 3671

Remarks

Claims 1-5, 10-12, 15-17 and 20-46 are presently pending in this application. It is noted with appreciation that claims 40-43 have been allowed, and claims 5, 10-12, 15, 21-24, 28, 34, 35 and 38 have been objected to, but indicated to contain allowable subject matter. Claim 25-27, 29, 36, 37, 39 and 44-46 have been withdrawn from consideration.

Claims 1-4, 16-17, 20 and 30-33 were rejected under 35 U.S.C. §102(b) as being anticipated by Welscher, et al., Patent No. 5,436,419 (hereinafter "Welscher"). Independent claims 1 and 30 have been amended to specifically address this rejection under §102(b) as being anticipated by Welscher and to more clearly point out the invention being claimed.

A distinction between the subject invention and Welscher is that Welscher teaches only a single switch which incorporates different positions to perform different functions. "The Welscher switch has three different operating positions depending upon the degree to which ball 62 is depressed." Welscher, col. 4, lines 32-34. The Examiner's rejection refers to a first switch "in NSS circuit not switch 58" and a second switch "in BAS circuit not switch 58." Office Action, page 2. However, Welscher only discloses a single switch having three different positions and thus the Welscher design does not teach or suggest multiple switches in separate locations on the hydraulic drive device.

The subject invention, on the other hand, provides for two different switches, and claims 1 and 30 have been amended to specifically indicate that the two switches are separated from one another. It is respectfully submitted that claim 1, as amended, is now allowable over the Welscher '419 reference. Claims 2-5 and 16, 17 and 20-24 depend therefrom and are also allowable. Independent claim 30 and its dependent claims 31-35 are also allowable.

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Claim 10 has been amended to include the subject matter of its intervening claims and therefore claim 10 is now independent and is allowable along with its dependent claims 11, 12 and 15. Note that the claim language is slightly different from that of claim 1, as the "open state" and "closed state" limitations have been eliminated to more broadly claim this invention. This change does not affect the allowability of these claims.

Claim 28 was also amended to include the subject matter of claim 1 and, therefore, claim 28 is now independent and is allowable.

Minor amendments were also made to claims 12 and 34. These changes are not intended to change the scope of the claims, other than the dependency of claim 12.

With respect to the withdrawn claims, it is respectfully submitted that at least claims 25-27, 29, 36, 37 and 39 should be examined and allowed as these claims now depend from an allowable generic claim.

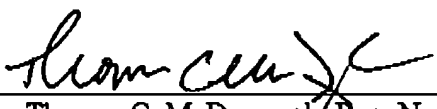
Finally, a Supplemental Information Disclosure Statement is being filed concurrently herewith to bring to the Examiner's attention art that was cited in commonly owned, co-pending application Serial No. 10/653,319, which is also directed to a neutral start switch. A copy of that application is also being submitted with the Information Disclosure Statement. It is believed that none of this art anticipates or makes obvious any of the pending claims.

Applicant has addressed all of the outstanding matters and it is requested that this application be granted a Notice of Allowance at the earliest possible date. Please contact the undersigned attorney if there are any questions.

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Any fees required by this Response may be charged to our firm's Deposit Account No.
502,261.

Date: October 12, 2005

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